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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,796	09/18/2001	Ed O. Schlotzhauer	10010804-1	1044

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AGILENT TECHNOLOGIES, INC.
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EXAMINER
WEST, JEFFREY R

ART UNIT	PAPER NUMBER
2857	

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _20 December 2004_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex·parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-29 and 31-40_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-29 and 31-40_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _05 December 2003_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

2. Claims 31-36 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention because they depend from a cancelled

claim. For examination in the instant Office Action, it is assumed that claim 31

depends from claim 21 rather than claim 30.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

4. Claims 1-4, 7-33, and 36-40 are rejected under 35 U.S.C. 102(e) as being

anticipated by U.S. Patent Application Publication No. 2003/0004670 to Schmit et al.

With respect to claim 1, Schmit discloses a method for a user of a measurement

process to cause a variation in the measurement process (0125), the measurement

process comprising a sequence of operations controlled by a computer program

(0137) containing a variation point at which a function call instruction is inserted

(inherently by a designer of the computer program 0601) to pass control to a

configuration tool (0194) implementing a user-defined variation function (0164 and

0055), said method comprising determining the variation to the measurement

process (0194), providing a user-generated process modification software module

comprising the user-defined variation function for causing the variation (0055 and

0125), and associating the function call instruction with the user-defined variation

function prior to execution of the measurement process, wherein the function call

instruction passes control to the user-defined variation function when the variation

point in the computer program is reached (0168 and 0194).

With respect to claims 2-4 and 31-33, Schmit discloses that the process

modification software module further comprises an interface servicing element that

services an interface realized by the measurement process with the interface

operating at a binary protocol (0500 and 0504).

With respect to claims 7 and 36, Schmit discloses that said interface is

determined by the user and is identified and passed into said measurement process

(0017).

With respect to claims 8 and 37, Schmit discloses that said process modification

software module is a computer program conforming to a software component

specification for distributed applications (i.e. JAVA) (0023).

With respect to claims 9-13, Schmit discloses that the measurement process and

the process modification software module are executed either in a shared computer

memory space or in separate first and second memory spaces first and second computers wherein the second computer is remote from the first computer and connected to the first computer via a network (0139).

With respect to claims 14-18 and 22-28, Schmit discloses that said variation comprises modification of data (0163) received from the variation function including one or more numerical parameters (i.e. voltages) (0255), selectable alternatives of control parameters (0017), alteration of a configuration of the device under test (0192 and 0270-0271), or causing input signals to be supplied to the device under test (0276).

With respect to claim 21, Schmit discloses a computer readable medium containing program instructions, generated by a program designer (0601 and 0624), for carrying out the associated method (0138).

With respect to claims 22 and 23, Schmit discloses passing attributes/measurement data to the function call (0168).

With respect to claim 29, Schmit discloses that the function call instruction invokes an interface (0194).

With respect to claims 19, 20, and 38, Schmit discloses a plurality of variation points that access the user for the reception of measurement data using a plurality of application programming interfaces (0194) wherein the measurement data is provided by a plurality of user-defined variation functions (0017-0018, 0055, 0125, and 0165).

With respect to claim 39, since the function calls disclosed by Schmit are in the

instruction code, operable to control the measurement process at a variation point in

the code, and allows corresponding user input to modify the measurement process,

it is considered inherent that the designer of the instruction program has anticipated

that the user may want to interact with or modify the measurement process because

the designer of the code would have eliminated the possibility of user intervention

and would not have provided user prompts if such interaction was not desired.

With respect to claim 40, Schmit discloses a measurement system comprising a

physical interface operable to supply signals to a device under test and receive

signals from a device under test (0127 and 0274-0276).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 5, 6, 34, and 35 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Schmit in view of U.S. Patent Application Publication No.

2002/0026514 to Ellis et al.

As noted above, the invention of Schmit teaches many of the features of the

claimed invention and while the invention of Schmit does teach that the

measurement process and the process modification software module are executed

in separate first and second memory spaces of first and second computers wherein

the second computer is remote from the first computer and connected to the first

computer via a network (0139), Schmit does not specifically indicate that the

communication uses a Simple Object Access Protocol or Common Object Request

Broker Architecture protocol.

Ellis teaches automated tool management in a multi-protocol environment

comprising measuring/polling software located on a server computer system with

corresponding processor and memory (0025) and user process control software

(0007) located on a separate remote computer (0023), wherein the process control

software and the monitoring/polling software communicate over a network using

predetermined protocol including Common Object Request Broker Architecture and

Simple Object Access Protocol (0007).

It would have been obvious to one having ordinary skill in the art to modify the

invention of Schmit to include specifying that the communication uses a Simple

Object Access Protocol or Common Object Request Broker Architecture protocol, as

taught by Ellis, because, as suggested by Ellis, the combination would have

provided a means for communicating using common and well-known object oriented

inter-application communication protocol, as would be required in the communication

between the remote computers of Schmit (0043)..

Response to Arguments

7. Applicant's arguments with respect to claims 1-29 and 31-40 have been

considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to

Applicant's disclosure.

U.S. Patent Application Publication No. 2003/0046665 to Ilin teaches a reusable

software component for textually supplementing, modifying, evaluating, and

processing procedural logic for a compiled host program at run-time.

U.S. Patent No. 6,766,514 to Moore teaches a compiler having real-time tuning,

I/O scaling and process test capability.

U.S. Patent No. 6,351,843 to Berkley et al. teaches dynamically inserting a

function into an application executable at runtime.

U.S. Patent No. 6,202,043 to Devoino et al. teaches a computer based system

for imaging and analyzing a process system and indicating values of specific design

changes.

U.S. Patent No. 6,163,879 to Mackey teaches an interface and method for

facilitating writing and modifying of lines of programming code.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and

any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing

date of the advisory action. In no event, however, will the statutory period for reply

expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications

from the examiner should be directed to Jeffrey R. West whose telephone number is

(703)308-1309. The examiner can normally be reached on Monday through Friday,

8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Marc S. Hoff can be reached on (703)308-1677. The fax phone number

for the organization where this application or proceeding is assigned is (703) 872-

9306.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is

(703)308-0956.

jrw
March 6, 2005

MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800